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COPY

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Butte)

THE PEOPLE,

Plaintiff and Respondent,

v.

WILLIAM DOUGLAS ROBERTS,

Defendant and Appellant.

C070045

(Super. Ct. No.
CM034969)

Defendant William Douglas Roberts pled no contest to criminal threats (Pen. Code, § 422)¹ and receiving stolen property (§ 496, subd. (a)). The trial court imposed a stipulated term of three years eight months in state prison and awarded 159 days of presentence credit (107 actual and 52 conduct).

On appeal, defendant contends the trial court's failure to award additional conduct credits pursuant to the Criminal

¹ Undesignated statutory references are to the Penal Code.

Justice Realignment Act of 2011 (Realignment Act) (Stats. 2011, ch. 15, § 482) deprived him of equal protection under the law. We affirm.

DISCUSSION²

Defendant committed the offenses for which he was convicted on July 29 and 30, 2011. He was sentenced on November 14, 2011, except for custody credits, which the trial court awarded on December 1, 2011.

The trial court calculated defendant's conduct credits under the September 28, 2010 revision of the presentence credit law, which provided that a defendant with a current serious conviction was entitled to two days of conduct credit for every four days of presentence custody. (Former §§ 2933, 4019 (Stats. 2010, ch. 426; see *In re Marquez* (2003) 30 Cal.4th 14, 25-26 (*Marquez*) [no rounding up when calculating credits].)

The Realignment Act amended the law, entitling defendants to two days of conduct credits for every two days of presentence custody. (§ 4019, subds. (b), (c), (f); see *Marquez, supra*, 30 Cal.4th at pp. 25-26.) The award of credits is not reduced by a defendant's current or prior conviction for a serious felony. This provision applies prospectively, to defendants serving presentence incarceration for crimes committed on or after October 1, 2011. (§ 4019, subd. (h).)

² The facts of defendant's crime are unnecessary to resolve this appeal.

Defendant argues that the prospective application of the conduct credit provisions of the Realignment Act violates his right to equal protection under the law.

In *People v. Brown* (2012) 54 Cal.4th 314 (*Brown*), our Supreme Court addressed whether the prospective application of the January 25, 2010 amendment to section 4019 (Stats. 2009, 3d Ex. Sess., ch. 28, § 50, which increased conduct credits, violated a defendant's equal protection rights. (*Id.* at p. 318.) Our high court held that prospective application of a law increasing the award of conduct credits did not violate a defendant's equal protection rights. (*Id.* at p. 330.)

Our high court recently rejected an equal protection claim regarding conduct credits awarded under the Realignment Act in *People v. Lara* (2012) 54 Cal.4th 896, 906, fn. 9.) Reiterating its reasoning in *Brown*, the court stated, "[t]he obvious purpose" of a law increasing credits "is to affect the behavior of inmates by providing them with incentives to engage in productive work and maintain good conduct while they are in prison." [Citation.] "[T]his incentive purpose has no meaning if an inmate is unaware of it. The very concept demands prospective application." (*Brown*, at p. 329, quoting *In re Strick* (1983) 148 Cal.App.3d 906, 913.) Accordingly, prisoners who serve their pretrial detention before such a law's effective date, and those who serve their detention thereafter, are not similarly situated with respect to the law's purpose. (*Brown*, at pp. 328-329.)" (*Lara, supra*, 54 Cal.4th at p. 906, fn. 9.)

Brown and *Lara* apply here. Consequently, we reject defendant's claim.

DISPOSITION

The judgment is affirmed.

MURRAY, J.

We concur:

RAYE, P. J.

HOCH, J.